

complaint

Mrs S complains about the contact that she's received from Hoist Finance UK Limited, trading as Robinson Way, about her debt. She's being helped with her complaint by her husband.

background

Mrs S had a credit card debt from 2008 with a third party that was transferred to Robinson Way in September 2015. It obtained a county court judgment against her relating to the debt in February 2017. Mrs S's husband contacted Robinson Way about her health issues which affected her ability to pay the debt and about the way that it had contacted her. He said that contact from Robinson Way about the debt exacerbated her health issues and that all contact about the debt should be with him. Robinson Way accepted that mistakes had been made so it arranged for the judgment to be set aside in September 2017 and it paid £200 compensation to Mrs S. Robinson Way then contacted Mrs S about the debt multiple times so her husband again complained to it – and he says that the debt should be statute barred. He wasn't satisfied with its response so complained to this service.

The investigator recommended that this complaint should be upheld. He thought that it was likely that the text messages that Robinson Way sent to Mrs S would've been distressing for her – so he recommended that it should pay her £200 to recognise the impact that it would've had on her. And he said that Robinson Way also needed to ensure that it removed Mrs S's contact number from all of her accounts to prevent this happening again. He also said that Mrs S's husband should tell Robinson Way if it was likely to receive any other accounts that belong to Mrs S.

Mrs S husband, on her behalf, has asked for this complaint to be considered by an ombudsman. He says, in summary, that:

- Robinson Way hasn't stopped contacting Mrs S which suggests that either it didn't raise the issue internally as it said it would or that it doesn't consider it worth looking into;
- he can provide evidence to show the impact that the contact has had on Mrs S;
- it contacted Mrs S nine times over a period of a couple of months and the effect on her health was cumulative, each putting her into a worse state – and the distress and adverse health effects caused to her by the events of this complaint are on a level that is far, far in excess of those caused by the first complaint for which she received £200 compensation;
- Robinson Way has said that Mrs S's husband would be contacted by its specialist team for vulnerable customers but that hasn't happened and he doubts that such a team exists;
- Robinson Way has said that the account is on hold but has continued to send multiple demands for payment;
- Robinson Way has continued to contact Mrs S whilst this service deals with her complaint and has requested financial and medical information which has already been provided to it; and
- it contacted Mrs S again by letter twice in August 2019 asking for an update about her circumstances and about her complaint to this service.

And Robinson Way has also asked for this complaint to be considered by an ombudsman. It says, in summary, that:

- since its final response letter in November 2018 no further text messages were sent to Mrs S and it doesn't intend to issue any more;
- it can't prevent any new accounts being on-boarded which contain Mrs S as the debtor but it's recommending exception reporting and is significantly investing in new technology;
- it doesn't hold a singular customer view now but it's likely that it'll be available in the future; and
- it's searched its records and there are no other accounts which contain Mrs S's mobile number;

and it would like to work with Mrs S's husband about the best way forward on both of her accounts and there have been no payments on the accounts and her current liabilities are £19,422.50.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mrs S and to Robinson Way on 9 October 2019. In my provisional decision I said as follows:

"There doesn't seem to be any dispute that Mrs S is a vulnerable customer because of her health issues. And as such I consider it to be reasonable for Robinson Way to make adjustments to the way that it deals with her because of those issues. Mrs S's husband has asked that all communications be sent to him and he has provided authority for that from Mrs S.

But Robinson Way has continued to communicate with Mrs S. She has at least two accounts with it and it accepts that it's sent eight text messages to her about one of those accounts. And her husband has provided copies of two letters that it sent to her in August 2019 about the other account.

I don't consider that to be acceptable. I accept that Robinson Way is entitled to seek repayment of the debts (to the extent that it's legally entitled to do so) but I consider that all communication about the debts should be sent to Mrs S's husband and that it shouldn't contact Mrs S at all.

Mrs S's husband has provided some information about the impact of the contact on Mrs S. He complained to Robinson Way in August 2018 but it didn't send its final response letter until November 2018 – fourteen weeks later and substantially later than the eight weeks in which it's required to respond to a complaint. That will have caused further distress and inconvenience to Mrs S.

I consider that Robinson Way must ensure that it doesn't contact Mrs S about her debts. All contact should be through her husband. If Mrs S receives further contact from Robinson Way, I suggest that she complains to it and then, if she's not satisfied with its response, she may be able to complain to this service.

Robinson Way has said that these issues were going to be dealt with by a specialist team and then that they were no longer being considered by its legal team. It's not my role to tell Robinson Way how to organise its business but I consider that it would be appropriate for it to ensure that Mrs S's accounts are dealt with in a way that recognises and takes account of her vulnerability. Robinson Way says that it would like to work with Mrs S's husband about the best way forward on both of Mrs S's accounts as there have been no payments on the accounts and her current liabilities

are £19,422.50. I suggest that Mrs S's husband contacts Robinson Way to try to agree a way forward and if he doesn't do so within two weeks of this decision that it makes contact with him. But I find that it shouldn't contact Mrs S about those issues.

These events have caused significant but avoidable distress and inconvenience to Mrs S. And I find that it would be fair and reasonable in these circumstances for it to pay her £500 to compensate her for that distress and inconvenience.

Mrs S's husband says that her debt should be statute barred because Mrs S thinks that it's around ten years since she last made a payment on the account. But a court issued a judgment against Mrs S in February 2017 (which was set aside in September 2017). The court didn't consider that the debt was statute barred. It's not for me to say whether a debt is statute barred - only the courts can do that. But having said that, based on the evidence that I've been presented with in connection with this complaint, I'm not persuaded that the debt would be statute barred".

So subject to any further representations by Mrs S, her husband or Robinson Way, my provisional decision was that I was minded to uphold this complaint in part.

Mrs S's husband says that she accepts my provisional decision. Robinson Way says that it's received my provisional decision and that it's possible that it might make a further submission. But despite being given additional time to respond to my provisional decision, it hasn't done so.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not persuaded that I should change my provisional decision.

my decision

For the reasons set out above, my decision is that I uphold Mrs S's complaint in part. And I order Hoist Finance UK Limited, trading as Robinson Way, to pay £500 compensation to Mrs S for the distress and inconvenience that she's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 29 December 2019.

Jarrold Hastings
ombudsman